IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1521 OF 2005

Forum for Justice and Peace & Ors. ....Petitioners

Versus

State of Maharashtra & Anr. ....Respondents

Mr.P. K. Maheshwari Petitioner No.2 appearing in person present.
Mr.Ravi Kadam, Advocate General with Mr.R. M. Sawant, Government Pleader for the Respondents.

CORAM : DALVEER BHANDARI, C.J. &
S.J. VAZIFDAR, J.
DATE : 6TH JULY, 2005.

P.C. :

The learned counsel appearing for Petitioner No.1 – Mr.Ansari wishes to withdraw his appearance from this Petition. Petitioner No.2 is a practicing advocate of the Supreme Court. Petitioner No.1 is Forum for Justice and Peace of which Petitioner No.2 is the General Secretary who has filed this Petition with prayers

that the dancers as citizen of India have a right to practice their professional activity and more particularly by performing dances in Bars and Permit Rooms (Hotel and Restaurant).

2. The Petitioners have also prayed that the action taken or threatened to be taken by the Respondents in banning/prohibiting or restraining the aforesaid practice or profession of the dancers by the Respondents in purported exercise of the power vested in them are illegal, unconstitutional, unreasonable and ultra-vires to the Constitution of India and all such orders and directions issued or threatened so to initiate / promulgate ordinance, circulars or directions for prohibiting, forbidding and banning the dancers to perform their profession/vocation in the Bars and Permit Rooms (Hotel and Restaurants) duly licensed situated within the territory of this Hon'ble Court are most drastic, arbitrary, unreasonable, unfair and malafide actions and infringing the Fundamental Rights under Articles 14, 19 (1)(g), 21 read with Article 39 (a) of the Constitution of India.

3. The Petitioner in person fairly submits that he is not appearing for dancing girls/ladies in bar. He submitted that the

Petitioners have independent reason as social cause to protect their alleged rights even without any instructions from girls/ladies dancing in Dance Bars.

4. Mr.Suresh Jaywant Mahajan, Joint Secretary, Government of Maharashtra, Home Department, Mantralaya, Mumbai has filed an affidavit. It is mentioned in reply affidavit that according to the strict rules of Locus Standi, the Petitioners purports to espouse the cause of the girls dancing in the Dance Bars in the city of Mumbai. It is mentioned in the affidavit that Petitioner No.2 has origins and base in Delhi and is a practicing lawyer in the Supreme Court. It is further mentioned in the affidavit that the Respondents have failed to comprehend as to what interest they have in espousing the cause of the girls dancing in the Dance Bars in the city of Mumbai. It is also mentioned in the affidavit that the bar owners themselves are organized and have an Association of their own. Various submissions have been made on behalf of Bar Association as well as dancing girls in the print and electronic media. Therefore the persons who would be actually aggrieved by any action taken by the State Government are

capable of initiating action for protecting their rights. The Petitioner's locus standi in filing this Petition is also doubtful. It is not necessary to decide this issue in these proceedings.

5. Reliance has been placed on (2003) 7 SCC 546, in the case of – *Guruvayoor Devaswom Managing Committee and another v. C. K. Rajan & Ors.,* where :

> "(i) The Apex Court in exercise of powers under Article 32 and Article 226 of the Constitution of India can entertain a petition filed by any interested person in the welfare of the people who is in a disadvantaged position and, thus, not in a position to knock the doors of the Court. The Court is constitutionally bound to protect the fundamental rights of such disadvantaged people so as to direct the State to fulfill its constitutional promises.
>
> (ii) Whenever injustice is meted out to a large number of people the Court will not hesitate in stepping in Articles 14 and 21 of the Constitution of

India as well as the International Conventions on Human Rights provide for reasonable and fair trial".

Applying the above principles as laid down by the Apex Court, in our considered view, the ration of this case has no application to the facts of the present case.

6. Apart from that, according to the respondents, this petition deserves to be dismissed as premature. The petition has been filed in anticipation of the State amending the relevant law. It is clearly mentioned that as yet no Ordinance has been passed by the Governor of Maharashtra amending the provisions of the relevant law applicable to the conduct of the Dance Bars in the State of Maharashtra. It is further incorporated in the affidavit that at this juncture, since no legislation banning the Dance Bars is in place, the petition is premature and therefore, untenable.

7. We have heard the Petitioner in person appearing for Petitioner Nos.1 and 2. He failed to point out Ordinance or any order

prohibiting the dance girls from performing in Dance Bars. Petitioner No.2 appearing in person has filed this Petition apprehending any such prohibitory order / Ordinance. During the course of his submission, the Petitioner has placed reliance on a judgment of the Andra Pradesh High Court in *Big Way Bar & Restaurant and etc. v. Commissioner of Police, Hyderabad and another, 2003 CRI. L. J. 1360*. This judgment was passed when there was a prohibitory order passed by the Commissioner of Police, Hyderabad completely prohibiting conduct of singing music and performing dance programmes in the public places. This judgment has no application whatsoever in the facts of this case.

8. Petitioner in person has also placed reliance on a judgment of the Supreme Court in *Guruvayur Devaswom Managing Committee v. C. K. Rajan, AIR 2004 SC 561* and relied on paragraph 41 of this judgment where the Court has observed :

> "The Courts exercising their power of judicial review found to its dismay that the poorest of the poor, deprived, the illiterate, the urban and rural

> unorganised labour sector, women, children, handicapped by `ignorance, indigence and illiteracy' and other down trodden have either no access to justice or had been denied justice."

These observations of the Supreme Court have been incorporated but have no relevance whatsoever as far as the case in hand is concerned.

9. The Petitioner in person also placed reliance on a judgment of the Supreme Court in Miss *M.S. Annaporani v. State of Uttar Pradesh, 1993 CRI. L. J. 487*. This Habeas Corpus Petition was filed in Allahabad High Court on the basis of the news item published in daily news paper about torture perpetrated on woman. This judgment also has no application whatsoever as far as the fact of the case in hand is concerned.

10. In this case, the Joint Secretary to the Government of Maharashtra on affidavit has stated that no Ordinance or prohibitory order has been passed. In this view of the matter when no ordinance

or prohibitory order has been passed, the Petitioner in person in fact has no grievance. This Petition is totally devoid of any merits and is accordingly dismissed as premature.

CHIEF JUSTICE

S.J. VAZIFDAR, J.